

## SENATE BILL NO. 15

INTRODUCED BY J. COBB

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE IMPACT ON THE GENERAL FUND OF THE TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT; TEMPORARILY REDUCING THE INDIVIDUAL INCOME TAX CREDIT FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT TO 30 PERCENT; TEMPORARILY REDUCING THE CORPORATE TAX CREDIT FOR CHARITABLE CONTRIBUTIONS TO A QUALIFIED ENDOWMENT TO 13.3 PERCENT; TEMPORARILY REDUCING THE AMOUNT OF THE MAXIMUM CREDIT THAT CAN BE CLAIMED TO \$6,600; TEMPORARILY INCREASING THE TAX CREDITS FOR CONTRIBUTIONS TO A QUALIFIED ENDOWMENT TO OFFSET THE TEMPORARY DECREASES TO THE CREDITS; AMENDING SECTIONS 15-30-166, 15-30-167, 15-31-161, AND 15-31-162, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE ~~AND, A RETROACTIVE AN~~ AN APPLICABILITY ~~DATE DATES, AND A TERMINATION DATE DATES.~~"

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-30-166, MCA, is amended to read:

**"15-30-166. (Temporary) Credit for contributions to qualified endowment.** (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-103 or 15-31-101 in an amount equal to ~~40%~~ 30% of the present value of the aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is ~~\$10,000~~ \$6,600. The credit allowed under this section may not exceed the taxpayer's income tax liability.

(2) The credit allowed under this section may not be claimed by an individual taxpayer if the taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as a deduction under 15-30-121(1) or 15-30-136(2).

(3) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made. (Terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"

**SECTION 2. SECTION 15-30-166, MCA, IS AMENDED TO READ:**

**"15-30-166. (Temporary) Credit for contributions to qualified endowment.** (1) A taxpayer is allowed a tax credit against the taxes imposed by 15-30-103 or 15-31-101 in an amount equal to ~~40%~~ 50% of the present value of the aggregate amount of the charitable gift portion of a planned gift made by the taxpayer during the year to any qualified endowment. The maximum credit that may be claimed by a taxpayer for contributions made from all sources in a year is ~~\$10,000~~ \$13,400. The credit allowed under this section may not exceed the taxpayer's income tax liability.

(2) The credit allowed under this section may not be claimed by an individual taxpayer if the taxpayer has included the full amount of the contribution upon which the amount of the credit was computed as a deduction under 15-30-121(1) or 15-30-136(2).

(3) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made. (Terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"

**Section 3. Section 15-30-167, MCA, is amended to read:**

**"15-30-167. (Temporary) Beneficiaries of estates -- credit for contribution to qualified endowment.**

A contribution to a qualified endowment, as defined in 15-30-165, by an estate qualifies for the credit provided in 15-30-166 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the estate in the same proportion used to report the beneficiary's income from the estate for Montana income tax purposes. The maximum amount of credit that a beneficiary may claim is ~~\$10,000~~ \$6,600, subject to the limitation in 15-30-166(2), and the credit must be claimed in the year in which the contribution is made. The credit may not be carried forward or carried back. (Terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"

**SECTION 4. SECTION 15-30-167, MCA, IS AMENDED TO READ:**

**"15-30-167. (Temporary) Beneficiaries of estates -- credit for contribution to qualified endowment.**

A contribution to a qualified endowment, as defined in 15-30-165, by an estate qualifies for the credit provided in 15-30-166 if the contribution is a planned gift or in 15-31-161 if the contribution is an outright gift to a qualified endowment. Any credit not used by the estate may be attributed to each beneficiary of the estate in the same proportion used to report the beneficiary's income from the estate for Montana income tax purposes. The

1 maximum amount of credit that a beneficiary may claim is ~~\$10,000~~ \$13,400, subject to the limitation in  
2 15-30-166(2), and the credit must be claimed in the year in which the contribution is made. The credit may not  
3 be carried forward or carried back. (Terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"

4  
5 **Section 5.** Section 15-31-161, MCA, is amended to read:

6 **"15-31-161. (Temporary) Credit for contribution by corporations to qualified endowment.** A  
7 corporation is allowed a credit in an amount equal to ~~20%~~ 13.3% of a charitable gift against the taxes otherwise  
8 due under 15-31-101 for charitable contributions made to a qualified endowment, as defined in 15-30-165. The  
9 maximum credit that may be claimed by a corporation for contributions made from all sources in a year under  
10 this section is ~~\$10,000~~ \$6,600. The credit allowed under this section may not exceed the corporate taxpayer's  
11 income tax liability. The credit allowed under this section may not be claimed by a corporation if the taxpayer  
12 has included the full amount of the contribution upon which the amount of the credit was computed as a  
13 deduction under 15-31-114. There is no carryback or carryforward of the credit permitted under this section, and  
14 the credit must be applied to the tax year in which the contribution is made. (Terminates December 31,  
15 2007--sec. 5, Ch. 226, L. 2001.)"

16  
17 **SECTION 6. SECTION 15-31-161, MCA, IS AMENDED TO READ:**

18 **"15-31-161. (Temporary) Credit for contribution by corporations to qualified endowment.** A  
19 corporation is allowed a credit in an amount equal to ~~20%~~ 26.7% of a charitable gift against the taxes otherwise  
20 due under 15-31-101 for charitable contributions made to a qualified endowment, as defined in 15-30-165. The  
21 maximum credit that may be claimed by a corporation for contributions made from all sources in a year under  
22 this section is ~~\$10,000~~ \$13,400. The credit allowed under this section may not exceed the corporate taxpayer's  
23 income tax liability. The credit allowed under this section may not be claimed by a corporation if the taxpayer  
24 has included the full amount of the contribution upon which the amount of the credit was computed as a  
25 deduction under 15-31-114. There is no carryback or carryforward of the credit permitted under this section, and  
26 the credit must be applied to the tax year in which the contribution is made. (Terminates December 31,  
27 2007--sec. 5, Ch. 226, L. 2001.)"

28  
29 **Section 7.** Section 15-31-162, MCA, is amended to read:

30 **"15-31-162. (Temporary) Small business corporation, partnership, and limited liability company**

**credit for contribution to qualified endowment.** A contribution to a qualified endowment, as defined in 15-30-165, by a small business corporation, as defined in 15-30-1101, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C. 162, or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be attributed to shareholders, partners, or members or managers of a limited liability company in the same proportion used to report the corporation's, partnership's, or limited liability company's income or loss for Montana income tax purposes. The maximum credit that a shareholder of a small business corporation, a partner of a partnership, or a member or manager of a limited liability company may claim in a year is ~~\$10,000~~ \$6,600, subject to the limitations in 15-30-166(2). The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made. (Terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"

**SECTION 8. SECTION 15-31-162, MCA, IS AMENDED TO READ:**

**"15-31-162. (Temporary) Small business corporation, partnership, and limited liability company credit for contribution to qualified endowment.** A contribution to a qualified endowment, as defined in 15-30-165, by a small business corporation, as defined in 15-30-1101, a partnership, or a limited liability company, as defined in 35-8-102, carrying on any trade or business for which deductions would be allowed under section 162 of the Internal Revenue Code, 26 U.S.C. 162, or carrying on any rental activity qualifies for the credit provided in 15-31-161. The credit must be attributed to shareholders, partners, or members or managers of a limited liability company in the same proportion used to report the corporation's, partnership's, or limited liability company's income or loss for Montana income tax purposes. The maximum credit that a shareholder of a small business corporation, a partner of a partnership, or a member or manager of a limited liability company may claim in a year is ~~\$10,000~~ \$13,400, subject to the limitations in 15-30-166(2). The credit allowed under this section may not exceed the taxpayer's income tax liability. There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied to the tax year in which the contribution is made. (Terminates December 31, 2007--sec. 5, Ch. 226, L. 2001.)"

**NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

1        NEW SECTION. Section 10. Retroactive applicability APPLICABILITY. (1) ~~[This act]~~ applies  
2        retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2001 [SECTIONS 1, 3, 5,  
3        AND 7] APPLY TO CHARITABLE GIFTS MADE ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].

4 (2) [SECTIONS 2, 4, 6, AND 8] APPLY TO CHARITABLE GIFTS MADE ON OR AFTER JULY 1, 2003.

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6 NEW SECTION. SECTION 11. TERMINATION. (1) ~~[THIS ACT] TERMINATES DECEMBER 31, 2004. [SECTIONS~~  
7 ~~1, 3, 5, AND 7] TERMINATE JUNE 30, 2003.~~

8 (2) [SECTIONS 2, 4, 6, AND 8] TERMINATE APRIL 30, 2004.

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